UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,208	12/23/1999	ANTHONY ROSE	35596/DBP/B6	7148

23363 7590 07/28/2005		EXAMINER
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PASADENA, CA 91109-7068	ART UNIT	PAPER NUMBER
	2611	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/471,208	ROSE ET AL.
	Examiner	**Art Unit**	
	Christopher M. Lambrecht	2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>06 June 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____ . A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____ . (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____ .

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____ .

   Claim(s) objected to: _____ .

   Claim(s) rejected: _____ .

   Claim(s) withdrawn from consideration: _____ .

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____ .

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Continuation of 11. does NOT place the application in condition for allowance because: In particular, Applicant submits the following:

      (a)   one of ordinary skill in the art would have had no reason to add interactivity to Kalra's media delivery system, and as such there is no motivation to combine the teachings of Kalra and Meyer (Applicant's remarks, pp. 5-6);

      (b)   there is no motivation to modify the teachings of either Kalra or Meyer according to the teachings of Zamiska (Applicant's remarks, pp. 7-8);

      (c)   Progressive Networks fails to disclose taking into account scene duration in encoding a particular audio/video content; and

      (d)   Bolosky fails to disclose recursively updating a start transmission time of a previous data block based on the calculation of the start transmission times of successive blocks.

In response to (a), Examiner submits that both Kalra and Meyer teach systems for the delivery of streaming 3D animation. While Kalra discloses many of the structural and procedural elements of claim 1, Kalra does not discuss the provision of interactive streams. However, Meyer provides evidence that interactive, streaming animation was known in the art prior to Applicant's invention. The systems of Kalra and Meyer are clearly in the same field of endeavor, and as such one of ordinary skill in the art would readily recognize that their respective teachings are compatible. Furthermore, Meyer goes on to provide evidence of the desirability of providing interactivity in such a system, i.e., keeping a user engaged in provider content by enabling user interactions to prompt further exposure to additional animated material (col. 2, ll. 32-37). As such, one of ordinary skill in the art would clearly have been motivated to combine the teachings of Kalra and Meyer to obtain these benefits.

In response to (b), Examiner notes that claim 1 requires "identifying" the respective durations of the first and second scenes. Meyer briefly describes the compilation process for the 3D animation sequence, in which a developer creates the complete sequence to be viewed, including an initial sequence and any additional sequences. Although "identifying" the respective durations of the first and second scenes is inherent to the compilation process, Zamiska more clearly evidences how, in the creation of a multimedia work comprising multiple scenes, respective scene durations may be explicitly identified and maintained in a database for storing and managing said scenes. In the compilation process described in Meyer, providing means by which a developer can readily identify the durations and relative positions of the scenes in relation to one another, as described in the cited portions of Zamiska, would clearly benefit the developer with respect to creating an overall sequence with a desired length, comprising some number of individual scenes, which must be organized in a manner which engages the user through interactivity, as described in Meyer (col. 8, ll. 24-32). Accordingly, one of ordinary skill in the art would readily recognize the applicability and benefit of the teachings of Zamiska in combination with Kalra and Meyer.

In response to (c), claim 1 requires a stream file "...being of a size calculated from the identified data rate and the duration of the respective scene..." Examiner submits that, as noted in the previous Office action, a streaming video file is inherently "of a size calculated from the identified data rate and the duration of the respective scene". To elaborate, a distinction must be made between an actual mathematical operation called for in the claim (i.e., "multiplying quantities X and Y"), and a mere result (i.e., "the file being of a size") that could be produced by a variety of known techniques. To elaborate, any spherical volume of water is inherently "of a size" calculated based on the axial length of the volume and the circumference of the volume. The volume could be calculated in other ways, i.e., measuring the weight of the water contained in the volume and multiplying said weight by a known mass-volume conversion factor for the fluid contained therein, but this does not negate the fact that the volume is still "of a size" calculated based on the length of the volume and the circumference of the volume. The method of present claim 1 does not detail any numerical operation to be performed. Rather, claim 1 merely requires the stream file "be of a size" calculated as previously mentioned. As stated above, Examiner submits that any stream file containing a video scene is "of a size calculated from the identified data rate and the duration of the respective scene".

Accordingly, the rejection of claim 1 is maintained. Furthermore, because claims 9, 14, and 22 recite similar limitations, the rejections of these claims are also maintained.

In response to (d), Examiner submits that the process disclosed in Bolosky meets the claimed limitation. In particular, respective start transmission times are assigned for a plurality of data blocks. Then, the system checks for conflicts which may arise due to the transmission duration of a "successive" block causing the start transmission time of said "successive" block to overlap the transmission duration allocated for a "previous block". Where a conflict is found, said previous block start transmission time is moved up, or updated, in order to accommodate the transmission duration of said successive block. This process is by definition, recursive, in that a first start transmission time is scheduled for each block, a conflict detection routine is executed, and conflicts detected are resolved by updating the originally scheduled start transmission times. In addition, the start transmission time of a previous block is adjusted in order to resolve the conflict. Therefore, Bolosky discloses "recursively updating a start transmission time of a previous data block based on the calculation of the start transmission time of the successive data block."

Accordingly, the rejections of claims 23 and 27 are maintained.

In view of the above remarks, Examiner believes all issues raised by Applicant have been alleviated. All previously rejected claims stand rejected.

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